

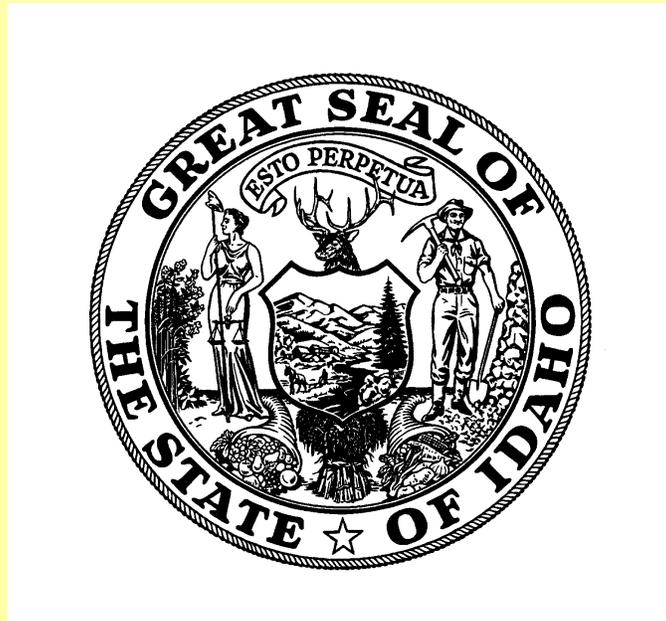
PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
**House Transportation
& Defense Committee**

64th Idaho Legislature
First Regular Session -- 2017



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2017

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 11 – IDAHO STATE POLICE

11.13.01 – THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-2901, Idaho Code and 49 CFR 386.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Idaho adopts the Federal Hazardous Material Regulations and Federal Motor Carrier Safety Regulations by reference. The Idaho Legislature approved the adoption of 49 CFR Part 386 during the 2015 session, but requested ISP reformat the rules and clarifies how the rules are adopted.

During the 2016 Legislative Session, the committees observed the need to reference Section 49-2212, Idaho Code, in Section 018, which adopts Federal Regulation changes regarding the transportation of hazardous materials, substances, and waste. Section 49-2212, Idaho Code, adopts Federal Hazardous Materials Regulations by reference as the changes occur. The Legislature adopted the other re-formatted changes.

This rule references Section 49-2212, Idaho Code, that provides for the adoption of the Federal Hazardous Materials Regulations by reference and the changes to those regulations as they occur by operation of law.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 361 through 363](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact on the state general fund or dedicated funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Captain Tim Horn, Idaho State Police Commercial Vehicle Safety at (208) 884-7220 or tim.horn@isp.idaho.gov.

DATED this 1st day of December, 2016.

Colonel Ralph W. Powell, Director
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642
Phone: (208) 884-7003
Fax: (208) 884-7090

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is September 15, 2016.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-2901 and 49-901 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho adopts the Federal Hazardous Material Regulations and Federal Motor Carrier Safety Regulations by reference. The Idaho Legislature approved the adoption of 49 CFR Part 386 during the 2015 session, but requested ISP reformat the rules and clarify how the rules are adopted.

During the 2016 Legislative Session, the committees observed the need to reference Section 49-2212, Idaho Code, in Section 018, which adopts by statute changes to Federal Regulations regarding the transportation of hazardous materials, substances, and waste. Section 49-2212, Idaho Code, provides for the adoption of changes to the Federal Hazardous Materials Regulations as the changes occur.

This rule references Section 49-2212, Idaho Code, that provides for the adoption of the Federal Hazardous Materials Regulations as the changes to those regulations occur by operation of law and incorporates by reference the latest amendments to 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388, 390 through 399, dated October 21, 2015.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This amendment clarifies that Section 49-2212, Idaho Code, adopts the Federal Hazardous Materials Regulations by reference and adopts changes to those regulations as they occur by operation of law. The reference to the statute in the rule was requested by the Senate Transportation Committee during the 2016 legislative session.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

Adoption of these rules will not affect general or dedicated funds. If the rule is not adopted, Idaho could sustain a reduction in federal grant funding as well as have a negative impact on dedicated funding.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because states are required to adopt these rules by reference to remain in compliance with the Federal Motor Carrier Safety Administration (FMCSA). The rules were adopted by FMCSA in compliance with the federal law and are published in the Federal Register and the Code of Federal Regulations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

All states adopt the Federal Motor Carrier Safety Regulations for interstate transportation; otherwise, a driver would have to comply with different rules in each state. Standardized rules provide for consistent transportation safety nationwide.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Capt. Tim Horn, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or tim.horn@isp.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 1st day of September, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-1601

004. INCORPORATION BY REFERENCE (RULE 4).

In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference: (3-25-16)

01. Safety Fitness Procedures (See Rule 12). Adoption of Federal Regulations, 49 CFR subtitle, chapter III, subchapter B - Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, subchapter C - Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not. (3-25-16)

02. Transportation of Hazardous Materials, Substances, and Wastes (See Rule 18). Adoption of Federal Regulations, 40 CFR Part 262 and 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under this Rule, IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-25-16)

a. Version of Federal Regulations Adopted. Per Section 49-2212, Idaho Code, the federal regulations adopted by reference in this Section 018 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. Amendments to the annual volumes are published in the Federal Register pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. (3-25-16)(____)

03. Carrier Safety Requirements (See Rule 19). Adoption of Federal Regulations 49 CFR Parts 356,

365, 382, 383, 385, 386, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-25-16)

a. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~March 31, 2014~~ October 21, 2015. (3-25-16)()

04. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov or copies may be viewed at the office of the Idaho State Police. (3-25-16)

IDAPA 11 – IDAHO STATE POLICE

11.13.01 – THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-1602

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-2901, Idaho Code and 49 CFR Part 380.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho State Police adopts the Federal Motor Carrier Safety Regulations (FMCSR) by reference. ISP has not previously adopted 49 CFR Part 380, which identifies the necessary training for the safe operation of driver's operating long combination vehicles (LCV). LCV's are a combination of a tractor and two or three trailers, which requires a more skilled driver for safe operation. Currently, other than completing a written exam, Idaho has no driver training requirements. Upon completion of the written exam the Idaho CDL driver receives an endorsement and is allowed to begin driving LCV's with no behind the wheel training.

With the change in Idaho's over-legal weight permits of up to 129,000 pounds that are part of the Idaho Transportation Department's administrative rules, Idaho will see an increase in large LCV's. The adoption of Part 380, 49 CFR 380, will require LCV drivers and instructors to meet minimum qualification requirements. LCV drivers would be able to apply for a Grandfather Clause if they meet the requirements listed in Part 380.111, such as if they have been operating an LCV during the previous 2 years of the application. If the driver meets the Grandfather Clause requirements he/she will not need to attend the LCV training.

The adoption of this rule will assist in the safe operation of LCV's on Idaho roadways by making sure drivers have sufficient training with a qualified instructor before being released to operate LCV's. This will affect most over-legal permits that will be issued by ITD. All interstate carriers have been required to comply with Part 380 for over a decade, so many carriers are already complying.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10 pages 364 through 367](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact on the state general fund or dedicated funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Capt. Tim Horn, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or tim.horn@isp.idaho.gov.

DATED this 1st day of December, 2016

Colonel Ralph W. Powell, Director
Phone: (208) 884-7003
Fax: (208) 884-7090

Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2901, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho State Police adopts the Federal Motor Carrier Safety Regulations (FMCSR) by reference. ISP has not previously adopted 49 CFR Part 380, which identifies the necessary training for the safe operation of driver's operating long combination vehicles (LCV). An LCV is a combination of a tractor and two or three trailers that requires a more skilled driver for safe operation. Currently, other than completing a written exam, Idaho has no driver training requirements. Upon completion of the written exam, the Idaho CDL driver receives an endorsement and is allowed to begin driving LCV's with no behind-the-wheel training.

With the change in Idaho's over-legal weight permits of up to 129,000 pounds that are part of the Idaho Transportation Department's administrative rules, Idaho will see an increase in large LCV's. The adoption of Part 380, 49 CFR 380, will require LCV drivers and instructors to meet minimum qualification requirements. LCV drivers would be able to apply for a Grandfather Clause if they meet the requirements listed in Part 380.111, such as if they have been operating an LCV during the previous 2 years of the application. If the driver meets the Grandfather Clause requirements, he/she will not need to complete the LCV training.

The adoption of this rule will assist in the safe operation of LCV's on Idaho roadways by making sure drivers have sufficient training with a qualified instructor before being released to operate LCV's. This will affect most over-legal permits that will be issued by ITD. All interstate carriers have been required to comply with Part 380 for over a decade, so many carriers are already complying.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature and representatives of the affected interests were involved in the drafting and approval of the rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Captain Tim Horn, Idaho State Police Commercial Vehicle Safety at (208) 884-7220 or tim.horn@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 1st day of September, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-1602

004. INCORPORATION BY REFERENCE (RULE 4).

In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference: (3-25-16)

01. Safety Fitness Procedures (See Rule 12). Adoption of Federal Regulations, 49 CFR subtitle, chapter III, subchapter B - Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, subchapter C - Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (3-25-16)

02. Transportation of Hazardous Materials, Substances, and Wastes (See Rule 18). Adoption of Federal Regulations, 40 CFR Part 262 and 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under this Rule, IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-25-16)

a. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 018 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. Amendments to the annual volumes are published in the Federal Register pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. (3-25-16)

03. Carrier Safety Requirements (See Rule 19). Adoption of Federal Regulations 49 CFR Parts 356, 365, ~~380~~, 382, 383, 385, 386, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. ~~(3-25-16)~~()

a. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, ~~380~~, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~March 31, 2014~~ October 21, 2015. ~~(3-25-16)~~()

04. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov or copies may be viewed at the office of the Idaho State Police. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

019. CARRIER SAFETY REQUIREMENTS (RULE 19).

01. Adoption of Federal Regulations - Exceptions. (3-25-16)

a. All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b., subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

b. Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

c. The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. (3-30-07)

02. Obligation of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

- a.** Part 356. Motor Carrier Routing Regulations. (3-29-10)
- b.** Part 365. Rules Governing Application for Operating Authority. (3-29-10)
- c.** Part 380. Longer Combination Vehicle (LCV) Driver-Training and Driver-Instructor Requirements. ()
- d.** Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- e.** Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- f.** Part 385. Safety Fitness Procedures. (3-29-10)
- g.** Part 386.71-84. Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings. (4-11-15)
- h.** Part 387. Minimum Levels of Financial Responsibility. (3-29-10)
- i.** Part 388. Cooperative Agreements with States. (4-5-00)
- j.** Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)

<u>jk.</u>	Part 391. Qualifications of Drivers.	(4-5-00)
<u>kl.</u>	Part 392. Driving of Commercial Motor Vehicles.	(3-29-10)
<u>lm.</u>	Part 393. Parts and Accessories Necessary for Safe Operation.	(4-5-00)
<u>mn.</u>	Part 395. Hours of Service of Drivers.	(4-5-00)
<u>no.</u>	Part 396. Inspection, Repair and Maintenance.	(4-5-00)
<u>op.</u>	Part 397. Transportation of Hazardous Materials; Driving and Parking Rules.	(4-5-00)
<u>pq.</u>	Part 398. Transportation of Migrant Workers.	(4-5-00)
<u>qr.</u>	Part 399. Employee Safety and Health Standards.	(4-5-00)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov or copies may be viewed at the office of the Idaho State Police. (3-29-10)

IDAPA 11 – IDAHO STATE POLICE

11.13.01 – THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-1603

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-2901, Idaho Code and 49 CFR 395.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

With some exceptions all motor carriers and drivers, who are currently required to complete paper logs to document record of duty status (RODS) to comply with 49 CFR 395, will be required to use ELD's no later than December 18, 2017. However, the final federal rule exempts several sectors from the ELD requirement as follows:

- 1) Drivers who use paper RODS for not more than 8 days during any 30 day period;
- 2) Drivers who conduct driveaway-towaway operations, where the vehicle being driven is the commodity being delivered; and
- 3) Drivers of vehicles manufactured before model year 2000.

These exempted drivers must still document RODS using either paper logs or ELD's, whichever they choose. There are no changes to drivers or carriers who meet the current exemptions from RODS as listed in 49 CFR 395 and Section 67-2901B(2), Idaho Code.

Idaho is required to adopt this regulation by reference to maintain compliance with Federal Motor Carrier Safety Administration (FMCSA) and remain eligible for grant and highway funds.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 368 through 370](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact on the state general fund or dedicated funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Captain Tim Horn, Idaho State Police Commercial Vehicle Safety at (208) 884-7220 or tim.horn@isp.idaho.gov.

DATED this 1st Day of December, 2016

Colonel Ralph W. Powell, Director
Phone: (208) 884-7003
Fax: (208) 884-7090

Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2901, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

With some exceptions all motor carriers and drivers, who are currently required to complete paper logs to document record of duty status (RODS) to comply with 49 CFR 395, will be required to use ELD's no later than December 18, 2017. However, the final federal rule exempts several sectors from the ELD requirement as follows:

- Drivers who use paper RODS for not more than 8 days during any 30 day period;
- Drivers who conduct driveaway-towaway operations, where the vehicle being driven is the commodity being delivered; and
- Drivers of vehicles manufactured before model year 2000.

These exempted drivers must still document RODS using either paper logs or ELD's, whichever they choose. There are no changes to drivers or carriers who meet the current exemptions from RODS as listed in 49 CFR 395 and Section 67-2901B(2), Idaho Code.

Idaho is required to adopt this regulation by reference to maintain compliance with Federal Motor Carrier Safety Administration (FMCSA) and remain eligible for grant and highway funds.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature and representatives of the affected interests were involved in the drafting and approval of the rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Captain Tim Horn, Idaho State Police Commercial Vehicle Safety at (208) 884-7220 or tim.horn@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 1st day of September, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-1603

004. INCORPORATION BY REFERENCE (RULE 4).

In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference: (3-25-16)

01. Safety Fitness Procedures (See Rule 12). Adoption of Federal Regulations, 49 CFR subtitle, chapter III, subchapter B - Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, subchapter C - Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (3-25-16)

02. Transportation of Hazardous Materials, Substances, and Wastes (See Rule 18). Adoption of Federal Regulations, 40 CFR Part 262 and 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under this Rule, IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-25-16)

a. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 018 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. Amendments to the annual volumes are published in the Federal Register pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. (3-25-16)

03. Carrier Safety Requirements (See Rule 19). Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-25-16)

a. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~March 31, 2014~~ October 21, 2015. (3-25-16)()

04. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov or copies may be viewed at the office of the Idaho State Police. (3-25-16)

IDAPA 35 – IDAHO STATE TAX COMMISSION
35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1601
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2017 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session unless the rules are approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rules are approved or rejected in part by concurrent resolution, the rules becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Sections 63-105 and 63-2427.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the following pending rules, and they are being adopted as originally proposed:

Motor Fuels Tax Rule 003, Administrative Appeals.
Motor Fuels Tax Rule 140, Deductions.
Motor Fuels Tax Rule 311, IFTA License Bond.
Motor Fuels Tax Rule 400, IFTA Licensing and Special Fuel Permitting Requirements for Motor Vehicles over Twenty-Six Thousand Pounds Maximum Gross Weight.

There are substantive changes to the following pending rule, and it is being adopted as published in this docket:

Motor Fuels Tax Rule 004, Incorporation by Reference (Subsection 004.03.). The State Tax Commission discovered that some of the previously published revision dates for the incorporated materials were incorrect.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only the section printed in this bulletin has changed from the proposed text. The complete text of the proposed rules for this docket were published in the May 4, 2016 Idaho Administrative Bulletin, [Vol. 16-5, pages 60 through 64](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Don W. Williams, (208) 334-7855.

DATED this 7th day of December, 2016.

Don W. Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7846
Don.williams@tax.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 18, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Motor Fuels Tax Rule 003, Administrative Appeals. This rule will be changed to add additional references to appeal rights and make changes to add clarity.

Motor Fuels Tax Rule 004, Incorporation by Reference. This rule will be changed to update the incorporated references.

Motor Fuels Tax Rule 140, Deductions. This rule will be deleted. Subsections 140.01 and 140.04 will be added to Motor Fuels Tax Rule 130. Motor Fuel Tax Rule 130 will be a negotiated rule.

Motor Fuels Tax Rule 311, IFTA License Bond. The reference in Subsection 311.05 will be updated to reference section 63-2470, Idaho Code.

Motor Fuels Tax Rule 400, IFTA Licensing and Special Fuel Permitting Requirements for Motor Vehicles over Twenty-Six Thousand Pounds Maximum Gross Weight. When HB 132 passed in the 2015 legislative session, it eliminated the gaseous fuels permit program. References to the gaseous fuel decal will be eliminated. The rule will also be changed to add clarity.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were to eliminate dated material, update external references, and make changes to add clarity.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The International Fuel Tax Agreement is being incorporated by reference because it is adopted by Section 63-2442A(1), Idaho Code.

The International Registration Plan is being incorporated by reference because it is adopted by Section 49-435(1), Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don W. Williams, (208) 334-7855. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 25, 2016.

DATED this 4th Day of May 2016.

LSO Rules Analysis Memo

Italicized red text that is double underscored is new text that has been added to the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1601

003. ADMINISTRATIVE APPEALS (RULE 003).

Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code
This chapter does allow administrative relief in the provisions outlined as provided under Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code and pursuant to Rules promulgated adopted by the Commission found in the Commission's administration and enforcement rules relating to income taxation, IDAPA 35.02.01. (4-6-05)()

004. INCORPORATION BY REFERENCE (RULE 004).

Sections 63-2434, 63-2442A, 41-4909, and 49-439, Idaho Code. The following documents are incorporated by reference: (3-25-16)()

01. Income Tax Administration and Enforcement Rules. These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," relating to the statutes authorized by Section 63-2434, Idaho Code. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (3-25-16)

02. International Fuel Tax Agreement. These rules incorporate the International Fuel Tax Agreement (IFTA) governing documents: the IFTA Articles of Agreement (revised July 1, 2013 January 1, 2017), the IFTA Procedures Manual (revised January 1, 2015), and the IFTA Audit Manual (revised January 20, 2012 1, 2017). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws. The IFTA governing documents are equally binding on all IFTA member jurisdictions and licensees. Motor fuels users licensed or required to be licensed under an Idaho IFTA license must comply with all applicable rules contained in these rules. These documents can be found on the IFTA website at <http://www.iftach.org>. (3-25-16)()

03. International Registration Plan. These rules incorporate the International Registration Plan (IRP) governing documents: The IRP Plan (revised January 1, 2015 July 1, 2016) and IRP Audit Procedures Manual (revised July 1, 2013 January 1, 2016). IRP is an international registration reciprocity agreement. The documents are included to aid the Commission in complying with IRP registration application audits authorized in Chapter 4, Title 49, Idaho Code. These documents can be found on the IRP website at <http://www.irponline.org>. (3-25-16)()

(BREAK IN CONTINUITY OF SECTIONS)

138. -- ~~139~~40. (RESERVED)

~~140. DEDUCTIONS (RULE 140).~~
~~Section 63-2407, Idaho Code.~~

~~01. Motor Fuels and Petroleum Products Presumed To Be Distributed. Unless the contrary is~~

~~established, it shall be presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and/or transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee will be allowed for accidental losses of motor fuels or other petroleum products. (7-1-98)~~

~~**02. Distributor's and Retail Dealer's Allowances for Motor Fuels.** (This Subsection only applies to sales of motor fuels made before December 1, 2007.) The distributor shall certify on his report that the one percent (1%) credit allowance has been afforded the retail dealer to cover the dealer's shrinkage, evaporation, spillage or handling losses for motor fuel. The State Tax Commission shall then allow the additional one percent (1%) deduction unless a retail dealer claims that he did not receive the credit allowance. If such claim is made, the State Tax Commission shall require the licensed distributor to provide documentary proof that the one percent (1%) credit allowance has been afforded the retail dealer, and unless the distributor establishes that the credit has been afforded to the retail dealer, the deduction will be disallowed. In the case of sales of motor fuel to retail dealers, to establish that the allowance of one percent (1%) of the tax has been passed to the purchaser, the invoice must show either: (4-2-08)~~

~~**a.** That the amount of the allowance has been passed on; or (7-1-98)~~

~~**b.** A statement that the allowance has been deducted in determining the price. (7-1-98)~~

~~**03. Distributor's Allowance for Motor Fuels.** (This subsection only applies to sales of motor fuels made on and after December 1, 2007.) The State Tax Commission will allow a two percent (2%) allowance granted in Section 63-2407, Idaho Code, to reimburse the licensed distributor for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty. (4-2-08)~~

~~**04. Exported Fuel.** Motor fuels or other petroleum products claimed as exported from Idaho must be supported by records. Records must include the following: (7-1-98)~~

~~**a.** Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and (7-1-98)~~

~~**b.** Common carrier shipping documents, bills of lading, manifests, and cost billings; or (7-1-98)~~

~~**c.** Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product; or (7-1-98)~~

~~**d.** Accounts payable or receivable information for verifying payments to common carriers or payment by out of state parties to verify receipt of exported product. (7-1-98)~~

~~**e.** In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records must be retained to prove the transfer of product out of Idaho. (7-1-98)~~

~~**05. Bad Debt Write-Off.** (This section only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.) A distributor may take a bad debt tax credit for fuel taxes paid on sales made after July 1, 1995. After the debt has been written off for income tax purposes in the distributor's records, the distributor may claim the credit on its fuel tax report for the month in which it made the bad debt adjustment. (4-2-08)~~

~~**a.** First in/first out method for partial payments. When a distributor receives partial payments on a fuel account that includes taxable and nontaxable fuel sales, the distributor must apply the payments to the unpaid fuel sales on a first in/first out basis before calculating the amount of the bad debt credit. (4-11-06)~~

~~**b.** Proration of partial payments. When a distributor receives partial payments on a fuel account,~~

~~before and/or after claiming a bad debt credit on its fuel tax report, the distributor must prorate the taxable and nontaxable fuel sales that occurred on the same day or on the same invoice for each such account. (4-11-06)~~

~~**e.** Amount of credit allowed. A distributor may claim a credit or refund on its monthly fuels tax report for fuels tax that is found to be uncollectible. If both nontaxable and taxable fuel sales are included in the fuel account, a distributor may take credit only for the portion of the bad debt that represents unpaid fuels tax. (4-11-06)~~

~~**d.** Multiple accounts—allocation of unspecified payments. If a distributor receives an unspecified payment from a customer that may be applied to an unpaid fuel account and nonfuel accounts, the distributor must allocate the payment to the various accounts upon receipt of the partial payment. If the distributor fails to make the allocation at the time the payment is received, the entire amount of the payment will be allocated to the customer's fuel account for purposes of calculating the amount of the credit. (4-11-06)~~

~~**e.** Statute of limitations for bad debt claim. A distributor may receive a credit or refund of fuels taxes in Subsection 140.04 of this rule if a written claim is filed with the State Tax Commission within three (3) years from the date the tax was paid to the State Tax Commission. The State Tax Commission will review all such refund claims. (4-11-06)~~

(BREAK IN CONTINUITY OF SECTIONS)

311. IFTA LICENSE BOND (RULE 311).
Sections 63-2442A and 63-2470, Idaho Code

01. General. The State Tax Commission (Commission) may require an International Fuel Tax Agreement (IFTA) licensee to post a bond following the requirements of the IFTA Agreement in order to maintain his license. A bond may be required when he files returns or remits taxes, separately or in combination, after the due date at least three times within a three year period. When a bond is required, the licensee must post the bond within thirty (30) days from the date of the request. When no bond is posted within the thirty (30) days, the license is automatically revoked and it must be surrendered to the Commission. An assessment may be made for any unreported tax liability based on actual records or an estimate. (4-11-15)

02. Reinstating Revoked Licenses. An applicant may be required to post a bond when he has previously had his IFTA license revoked or is related to a person who has previously had his IFTA license revoked. An applicant is related to a person who has previously had his IFTA license revoked when: (4-11-15)

a. The applicant is owned at least twenty-five percent (25%) by a person or persons who has previously had his IFTA license revoked. (4-11-15)

b. The applicant is operated or controlled by a person or persons who has previously had his IFTA license revoked. Operation and control includes, but is not limited to, an officer or director or other person authorized by the applicant to engage in the business or commercial activity of the applicant. (4-11-15)

03. Amount and Type of Bond. The amount of the bond will be one thousand dollars (\$1,000) or twice the estimated tax liability for the licensee's quarterly tax reporting period, whichever is greater, without regard to actual or anticipated tax-paid credits. Any type of bond allowed by the IFTA Agreement or these rules may be secured. The bond amount will be reviewed annually, but may be reviewed at any time, thereafter. The licensee's returns and records may be reviewed to determine if the bond amount will be raised, lowered, or remain unchanged. (4-11-15)

04. Bond Waiver Request. The licensee may request a waiver of bond requirement within thirty (30) days from the approval of the license renewal request. The licensee must be a quarterly filer. The licensee must have submitted the quarterly returns and paid the tax due by the due date for one calendar year. An annual filer may not request a bond waiver. (4-11-15)

05. Denial of Bond Waiver Request and Appeal of Denial. The Commission may deny a bond

waiver request when it determines that waiving the bond requirement puts the financial interests of IFTA jurisdictions in jeopardy. The licensee must follow the appeal procedure in Section ~~RI400, IFTA Articles of Agreement (revised July 2013)~~ 63-2470, Idaho Code, to appeal the denial of a bond waiver request. (4-11-15)()

(BREAK IN CONTINUITY OF SECTIONS)

400. IFTA LICENSING AND SPECIAL FUELS PERMITTING ~~REQUIREMENTS FOR MOTOR VEHICLES OVER TWENTY-SIX THOUSAND POUNDS MAXIMUM GROSS WEIGHT~~ (RULE 400).

~~The following rules relate to the special fuels tax licensing system provided in Sections 49-434, 63-2401, 63-2434, 63-2438 through 63-2440, and 63-2442A, Idaho Code, inclusive and, where expressly stated, supplements the requirements of IFTA.~~ (7-1-98)()

01. In General. It is unlawful for any person to operate a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels as defined in Section 63-2401, Idaho Code, on the highways of this state without having obtained one (1) of the following: (3-30-07)

a. A registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code. (7-1-98)

b. A temporary fuel tax permit from the Idaho Transportation Department. (3-15-02)()

c. An IFTA license. (7-1-98)

~~d. In the case of vehicles powered by gaseous fuels, a gaseous fuels permit as provided by Section 63-2424, Idaho Code. (4-7-11)~~

02. Federal or In-State Governmental Vehicles. Motor vehicles owned or leased and operated by the federal government or the state of Idaho or their instrumentalities or political subdivisions are exempt from these requirements. (3-15-02)

03. Out-of-State Governmental Vehicles. Motor vehicles owned or operated by another state of the United States or any agency or subdivision thereof are exempt from permitting and reporting under this rule if the state in which they are owned grants a reciprocal privilege to Idaho and its agencies and subdivisions. (7-1-98)

04. Temporary Fuel Tax Permits. Any person who operates a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state and is not registered solely for operation in this state under Section 49-434, Idaho Code, or IFTA licensed, shall secure a temporary fuel tax permit from the Idaho Transportation Department in the manner provided and required by that department. (3-30-07)()

05. Failure to Obtain an IFTA License, or Temporary Fuel Tax Permit, ~~or a Gaseous Fuels Permit.~~ Operation of a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state without a registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code, an IFTA license, or an Idaho temporary fuel tax permit, ~~or a gaseous fuels permit for motor vehicles powered by gaseous fuels as provided by Section 63-2424, Idaho Code,~~ is hereby deemed to be an act tending to prejudice the collection of the special fuels tax and an act that renders wholly or partially ineffective the procedures for collection of that tax. Accordingly, any deputy of the Commission, including those designated as deputies in Section 300 of these rules, may issue a jeopardy assessment under the authority of Sections 63-2434 ~~and 63-3065~~, Idaho Code. Such deputy is authorized to institute immediate collection procedures, including issuance of a tax warrant and distraint of the motor vehicle required to display, but failing to display, either an IFTA license or a temporary fuel tax permit. (4-7-11)()

IDAPA 35 – IDAHO STATE TAX COMMISSION
35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1602
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: The rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, pages 82 through 85](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don W. Williams at (208) 334-7855.

DATED this 7th day of December 2016.

Don W. Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7846
Don.williams@tax.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code, and Sections 63-2406 and 63-2407, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Motor Fuels Tax Rule 130, Distributor's Fuel Tax Reports, outlines the procedure licensed motor fuel distributors follow to complete the monthly motor fuel distributor's report. Subsection 130.04, Supplemental Reports, will be deleted from this rule. In addition, dated material will be removed.

Motor Fuels Tax Rule 140, Deductions, is not being negotiated, however, it will be deleted. Subsections 140.01, Motor Fuels and Petroleum Products Presumed To Be Distributed, and 140.04, Exported Fuel, will be added to Rule 130.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 4, 2016, Idaho Administrative Bulletin, [Vol. 16-5, page 65](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Williams at (208) 334-7855. Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2016.

DATED this 6th Day of July 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1602

130. DISTRIBUTOR'S FUEL TAX REPORTS (RULE 130).

Sections 63-2406, [63-2407](#), and [67-402](#) Idaho Code

01. Monthly Reports. Every licensed distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. The distributor must keep detailed inventory records. All reports which require the reporting of the number of gallons of motor fuels and other petroleum products shall be stated in gross gallons. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor shall include a listing of each person from inside and ~~or~~ outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load-by-load basis. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: ~~(3-30-01)~~()

a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; (7-1-98)

b. The total quantity of motor fuels ~~includes natural gasoline, gasoline blend stocks, ethanol, ethanol blended with motor fuel,~~ and other petroleum products received during the month. ~~See Rule 130.06 of these Rules;~~

~~(4-7-11)~~ ()

- c. The total quantity of motor fuels and other petroleum products disbursed during the month. A disbursement is motor fuel that is: (4-7-11)
- i. Delivered to licensed distributors tax and transfer fee not collected; (4-11-06)
 - ii. Exported tax and transfer fee exempt; (4-7-11)
 - iii. Delivered to the Idaho National Guard tax exempt; (4-7-11)
 - iv. Delivered to a tribe or an Indian-owned retail outlet fuels tax and transfer fee not collected because the fuel is the subject of an agreement authorized by Section 67-4002, Idaho Code, to the extent provided by the agreement, but only if the agreement is signed by the governor and appropriate representative of a tribe before December 1, 2007; or (4-7-11)
 - v. Delivered to an Idaho pipeline terminal and placed into storage fuels tax and transfer fee not collected. (4-7-11)
- d. The total quantity of motor fuels and other petroleum products transferred or relabeled from one (1) fuel type to another; (7-1-98)
- e. The casualty loss documented with satisfactory written explanation of proof of loss; (7-1-98)
 - f. The ending inventory of motor fuels and other petroleum products on the last day of the month; (7-1-98)
 - g. The gross taxable gallons of motor fuels and other petroleum products; (7-1-98)
 - h. The tax-paid purchases; (7-1-98)
 - i. The net taxable gallons; (7-1-98)
 - ~~j. The gallons of ethanol reported in ethanol blended fuel. The deduction for ethanol is limited to ten percent (10%) of the total volume of the product that meets the definition of gasohol as defined in Section 63-2401, Idaho Code. Biodiesel reported in biodiesel and biodiesel blended fuel. The deduction for biodiesel is up to ten percent (10%) of the total volume. See Section 63-2407, Idaho Code, for other limitations to these deductions (This Subsection only applies to deductions for ethanol or biodiesel that could be made before June 1, 2009); (3-29-10)~~
 - ~~k. The gallons after deduction of a one percent (1%) or two percent (2%) allowance, whichever is appropriate. (This subsection only applies to receipts of motor fuels received before December 1, 2007.) See Rule 140 of these rules; (4-2-08)~~
 - ~~l. The gallons after deduction of a two percent (2%) allowance. (This subsection only applies to receipts of motor fuels received on and after December 1, 2007.) See Rule 140 of these rules; (4-2-08) ()~~
 - ~~m. The tax computation; (7-1-98)~~
 - ~~n. The bad debt amounts; refer to Rule 140 of these rules (This section only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.); (3-29-10)~~
 - ~~o. The gaseous fuels permit fees; and (4-11-06)~~
 - ~~p. The net tax due. (4-11-06)~~
02. Exemption from Licensing and Monthly Reporting. See Rule 135 for exemptions from

obtaining a motor fuels distributor license and filing monthly reports. (3-29-10)

03. Machine Tabulated Data. Machine tabulated data will be accepted in lieu of detailed schedules on State Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the State Tax Commission with a copy of the format and must be granted written authorization to use that format. (7-1-98)

~~**04. Supplemental Reports.** In addition to a timely filed original monthly report, a supplemental report may be filed in those cases involving additional shipments of motor fuels and other petroleum products to the distributor. The supplemental report may be filed only when the distributor is diligent in reporting shipments in the monthly report. Only shipments received within the last five (5) days of the month may be reported in a supplemental report. Shipments received before that date will be subject to penalty if reported in the supplemental report. If a supplemental report is filed, the State Tax Commission will impose interest, but the report will not be subject to penalty. The supplemental report must be postmarked on or before the tenth day of the month following the month in which a report from which shipments were omitted was due. (4-7-11)~~

054. Timely Reporting. Any motor fuel and other petroleum product shipments that are: (4-7-11)

a. Reported on a timely supplemental report shall be subject to interest but are not subject to penalty. (7-1-98)

b. Not reported on a timely monthly or supplemental report shall be subject to interest and may be subject to penalty. (7-1-99)

065. Motor Fuels Receipts. All gasoline, natural gasoline, gasoline blend stocks, ethanol, ethanol blended fuels, aircraft engine fuel, biodiesel, biodiesel blends, and undyed diesel fuel or other special fuels received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to Rule 132 of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. (4-7-11)

06. Motor Fuels and Other Petroleum Products Presumed To Be Distributed. Unless the contrary is established, it shall be presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee will be allowed for accidental losses of motor fuels or other petroleum products. ()

07. Exported Fuel. Motor fuels or other petroleum products claimed as exported from Idaho must be supported by records. Records must include the following: ()

a. Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and ()

b. Common carrier shipping documents, bills of lading, manifests, and cost billings; or ()

c. Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product; or ()

d. Accounts payable or receivable information for verifying payments to common carriers or payment by out-of-state parties to verify receipt of exported product. ()

e. In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records must be retained to prove the transfer of product out of Idaho. ()

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.06 – RULES GOVERNING ALLOWABLE VEHICLE SIZE

DOCKET NO. 39-0306-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The changes to this rule are being made to ensure congruency with the FAST Act (2015) and Idaho Senate bill 1261 (2016). The specific details of this rule are in Idaho statute (§49-1010, Idaho Code); therefore, for efficiency purposes and to avoid possible confusion ITD as simply referenced the pertinent Idaho Code section in rule. This code section was amended by the 2016 Idaho legislature and is now up-to-date.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016, Idaho Administrative Bulletin, [Vol. 16-9, pages 262-263](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Reymundo Rodriguez, Motor Carrier Manager, (208) 334-8699.

DATED this 3rd day of November, 2016.

Ramón S. Hobdey-Sánchez
Governmental Affairs Program Specialist
Idaho Transportation Department
3311 W. State Street
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 40-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The changes to this rule are being made to ensure congruency with the FAST Act (2015) and Idaho Senate Bill 1261 (2016). The specific details of this rule are in Idaho statute (Section 49-1010, Idaho Code); therefore, for efficiency purposes and to avoid possible confusion, ITD has simply referenced the pertinent Idaho Code section in rule that establishes permissible load overhang. This code section was amended by the 2016 Idaho legislature and is now up-to-date.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the change itself is simple in nature. It also confers a benefit to the industry by having the specific details of allowable vehicle overhang only in one place (Idaho Code). Although this rule was not formally negotiated, it was part of ITD's rule package presented to the Idaho Transportation Board and stakeholders, open for public comments, multiple times over the last several months.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 2nd Day of August, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0306-1601

300. LOAD OVERHANG.

The overhang or extension of a load shall not extend ~~beyond the limits as set forth in Section 49-1010, Idaho Code,~~ ^{(9-14-92)()}

~~01- Front. More than four (4) feet beyond the front of a vehicle other than an automobile transporter or a boat transporter. (4-24-92)~~

~~02- Rear. More than ten (10) feet beyond the end of a vehicle other than an automobile transporter or a~~

- ~~boat transporter. (5-8-09)~~
- ~~03. **Right Side.** More than six (6) inches outside the right fender of a passenger vehicle. (4-24-92)~~
- ~~04. **Left Side.** Outside the left fender of a passenger vehicle. (4-24-92)~~
- ~~05. **Auto or Boat Transporter.** More than seven (7) feet front and rear combined length of an automobile transporter or boat transporter. (4-24-92)~~

IDAHA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.11 – RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS

DOCKET NO. 39-0311-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The modifications being made to this rule address truck permitting for non-reducible, oversized loads traveling on U.S. 12 in northern Idaho between milepost 74 and milepost 174. Specifically, loads that fall under one of the following criteria: 1) exceeds sixteen (16) feet wide and/or one hundred and fifty (150) feet in length; 2) load movement requires longer than twelve (12) hours to travel through the designated mileposts; or 3) load movement requires physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

Recent federal litigation raised new considerations for certain oversize vehicles and loads traveling through the Nez Perce Forest on U.S. 12. The federal district court held that the United States Forest Service has concurrent jurisdiction of vehicles and loads traveling through the Nez Perce Forest. The Forest Service responded and stated it would review all oversize vehicles/loads greater than 16 feet wide and/or 150 feet in length when such vehicles or loads travel on US 12 between milepost 74 and milepost 174.

Based on public comments received during the rulemaking process, there is an additional change to section 200.09 – Delaying Movement. As originally written, the word ‘may’ modifies both enforcement actions for violations and delaying movement. The change makes enforcement actions for violations non-discretionary.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2016, Idaho Administrative Bulletin, **Vol. 16-9, pages 264-267**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Reymundo Rodriguez, Motor Carrier Manager, (208) 334-8699.

DATED this 23rd day of November, 2016.

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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 40-312, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held via video-conferencing at the following locations:

Wednesday, September 28th, 2016 - 4:00 to 7:00 pm (MDT)	
Central Office - HQ 3311 W. State Street Boise, ID 83707	District 1 600 W. Prairie Ave. Coeur d'Alene, Idaho 83815
District 2 2600 Frontage Road Lewiston, ID 83501	District 4 216 S. Date Street Shoshone, ID 83352
District 5 5151 S. 5th Ave. Pocatello, ID 83204	District 6 206 N. Yellowstone Ave. Rigby, ID 83442

Each location will have live video-conferencing and be connected to the auditorium and the Idaho Transportation Department headquarters.

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The modifications being made to this rule address truck permitting for non-reducible, oversized loads traveling on U.S. 12 in northern Idaho, between milepost 74 and milepost 174. Specifically, loads that fall under one of the following criteria: 1) exceeds sixteen (16) feet wide and/or one hundred and fifty (150) feet in length; 2) load movement requires longer than twelve (12) hours to travel through the designated mileposts; or 3) load movement requires physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

Recent federal litigation raised new considerations for certain oversize vehicles and loads traveling through the Nez Perce Forest on U.S. 12. The federal district court held that the United States Forest Service has concurrent jurisdiction of vehicles and loads traveling through the Nez Perce Forest. The Forest Service responded and stated it would review all oversize vehicles/loads greater than 16 feet wide and/or 150 feet in length when such vehicles or loads travel on US 12 between milepost 74 and milepost 174.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because affected interests are not likely to reach consensus.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 30, 2016.

DATED this 22nd Day of August, 2016.

LSO Rules Analysis Memo

Italicized red text that is double underscored is new text that has been added to the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0311-1601

200. TIME OF TRAVEL RESTRICTIONS FOR OVER LEGAL LOADS.

Oversize loads may be transported on Idaho Highways subject to the following conditions: (10-2-89)

01. Red-Coded Routes. Daylight travel until 2 p.m. on Friday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to 8 a.m. If the movement is not completed by 8 a.m. the permittee will be required to safely park and not proceed until the next day. (4-5-00)

02. Black-Coded Routes. Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel daylight hours seven (7) days per week. (12-26-90)

03. Interstate. Loads not in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel daylight hours, seven (7) days per week. (4-5-00)

04. Nez Perce - Clearwater Forest Safety and Travel Requirements. As per a Federal Court decision, the United States Forest Service has the duty to regulate oversize loads traveling through the Nez Perce – Clearwater Forest (US 12 from milepost 74 to 174). ()

a. The Forest Service has issued the following written criteria to determine which “oversize” loads will be subject to Forest Service review: ()

i. Load exceeds sixteen (16) feet wide, and/or one hundred and fifty (150) feet in length. ()

- ii. Load movement requires longer than twelve (12) hours to travel through the designated mileposts. ()
- iii. Load movement requires physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance. ()
- b.** For those loads meeting any of the criteria above there will be additional safety requirements for the movement of such loads on US 12 from milepost 74 to 174. These additional safety requirements include, at a minimum, the following: ()
 - i. Ambulances and possible law enforcement escorts to ensure public safety. ()
 - ii. Safety lighting will be addressed so as to not create a safety hazard to the traveling public. ()
 - iii. Loads cannot utilize turnouts - which are designated for recreational vehicles for non-emergency parking. ()
 - iv. Time of travel will be determined based on traffic volume and best interest of the public. Night time movement may be required and/or movement may be restricted during holidays or weekends. ()
 - v. Loads require a vehicle safety inspection by the Idaho State Police or equivalent agency of another jurisdiction prior to issuance of a permit. ()
 - vi. ITD shall monitor the loads as they travel the highway and ensure only one (1) load shall operate on this section of highway at any one time. ()

045. Additional Restrictions. (8-25-94)

a. Red-Coded Routes: No travel for any load after 2 p.m. on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (4-5-00)

b. Black-Coded Routes and Interstate Routes: Loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may not travel after 4:00 p.m. on the day preceding a holiday; travel may be resumed at dawn on the day following the holiday. (4-5-00)

c. The following days are designated as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. (8-25-94)

d. Additional restrictions relating to movement of buildings and houses are listed in IDAPA 39.03.18, "Rules Governing Overlegal Permits for Relocation of Buildings or Houses," Section 400. (4-5-00)

e. Other time of travel restrictions may be noted on the permit due to special circumstances. (8-25-94)

056. Hours Of Darkness. Hours are defined as extending from one-half (1/2) hour after sundown to one-half (1/2) hour before sun rise or at any other time when visibility is restricted to less than five hundred (500) feet. (4-5-00)

067. Heavy Commuter Traffic Restrictions. The movement of oversize permitted vehicles or loads which are in excess of thirteen (13) feet in width, may be prohibited from movement on highways all state and interstate within one (1) mile of the city limits of the following cities: Boise, Caldwell, Coeur d'Alene, Eagle, Emmett, Idaho Falls, Meridian, Middleton, Nampa, Pocatello, Star, Twin Falls, Garden City, and Chubbuck at times of heavy commuter traffic. Authorized oversize permitted vehicles operating during hours of heavy commuter traffic shall be restricted to the furthest right hand lane. Emergency movement of vehicles/loads responding to imminent

hazards to persons or property shall be exempt from the provisions of Section 200. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., and 4 p.m. to 6 p.m. Monday through Friday except as noted under Holiday restrictions. Restrictions to the operation of oversize permitted vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. (3-30-07)

078. Hazardous Travel Conditions Restrictions. Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric conditions. (3-10-05)

089. Delaying Movement. Enforcement personnel responsible for any section of highway ~~may delay movements and~~ shall carry out enforcement action for violations involving overlegal permit operations ~~and may delay movements.~~ (7-5-00) ()

089. Delaying Movement. Enforcement personnel responsible for any section of highway may delay movements and carry out enforcement action for violations involving overlegal permit operations. (4-5-00)

0910. Map Resources. The Pilot/Escort Vehicle and Travel Time Requirement Map is available at the Idaho Transportation Department Overlegal Permit Office, and Ports of Entry, and District Offices. (4-5-00)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.12 – RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS

DOCKET NO. 39-0312-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The modifications to this rule address vehicle inspections, driver training and brakes. Specifically, the rule identifies a requirement for owner inspections in compliance with 49 CFR 396.17 and 396.19. Drivers are to meet all special training requirements for longer combination vehicles as outlined in 49 CFR Part 380. However, there are some exemptions in place for these two new requirements.

Additionally, brakes shall meet the Federal Motor Carrier Safety Administration Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers.

Based on public comments received throughout the rulemaking process, the following sentence, under section 060. BRAKES, was removed: No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2016, Idaho Administrative Bulletin, [Vol. 16-9, pages 268-269](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Reymundo Rodriguez, Motor Carrier Manager, (208) 334-8699.

DATED this 3rd day of November, 2016.

Ramón S. Hobdey-Sánchez
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 40-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The modifications to this rule address vehicle inspections, driver training and brakes. Specifically, the rule identifies a requirement for owner inspections in compliance with 49 CFR 396.17 and 396.19. Drivers are to meet all special training requirements for longer combination vehicles as outlined in 49 CFR Part 380. However, there are some exemptions in place for these two new requirements.

Additionally, brakes shall meet the Federal Motor Carrier Safety Administration Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2016 Idaho Administrative Bulletin, [volume 16-5, pages 68-69](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Each year, the Idaho State Police (ISP) adopt varying regulations of the Federal Motor Carrier Safety Administration. ITD has worked in partnership with ISP throughout this negotiated rulemaking and is only referencing federal regulations which are or will be adopted by ISP. The federal regulations/standards now being cited in ITD's administrative rule deal with self-certified owner inspections, driver training and brake standards.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 4th Day of August, 2016.

LSO Rules Analysis Memo

Italicized red text that is double underscored is new text that has been added to the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0312-1601

001. TITLE AND SCOPE.

01. **Title.** This rule shall be cited as IDAPA 39.03.12, “Rules Governing Safety Requirements of Overlegal Permits,” IDAPA 39, Title 03, Chapter 12. (4-5-00)

02. **Scope.** This rule states the requirements for vehicle inspections, brakes, pilot cars, oversize load signs, red warning flags, and lighting. ~~(4-5-00)~~()

(BREAK IN CONTINUITY OF SECTIONS)

011. -- ~~049.~~ (RESERVED)

050. SAFETY INSPECTION REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.

01. Inspections. All vehicles, tractors, trailers, and dolly converters operating under the authority of an overlegal permit issued by the Department must have a valid annual inspection at the time a permit is issued. The inspection shall be completed in compliance with 49 CFR Part 396.17. ()

02. Inspectors. Inspectors completing required annual inspections shall meet the certifications requirement in 49 CFR 396.19 and brake inspector qualification in 49 CFR 396.25. ()

03. Drivers. All drivers shall meet the special training requirements for Longer Combination Vehicles as outlined in 49 CFR Part 380. ()

04. Motor Carriers. By applying for an overlegal permit, motor carriers self-certify that they have performed inspections as set forth in 49 CFR Part 396.17. ()

05. Exemption. Oversize vehicles and/or loads operating under an exemption outlined in §67-2901B(2), Idaho Code, are exempt from this safety inspection requirement. ()

051. -- 059. (RESERVED)

060. BRAKES.

01. Safety Standards for Brakes. Brakes shall meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. ()

061. -- 099. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.15 – RULES GOVERNING EXCESS WEIGHT PERMITS FOR REDUCIBLE LOADS

DOCKET NO. 39-0315-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The modifications to this rule address truck permitting and 129,000 pound commercial motor vehicles (129K trucks) on the state's Interstate system. With the Idaho legislature's passage of SB1229 (2016), 129K trucks are now able to use the Interstates as they are now 129K designated routes. SB1229 was brought forward after the passage of the Federal Omnibus Appropriations Bill for FY16 in December 2015. SB1229 created a new section in code: §49-1004B, Idaho Code.

Furthermore, this rule proposes to establish a statewide permitting system. To promote intrastate surface transportation safety, intermodal commerce, law enforcement efficiencies and reduced administrative costs to local highway jurisdictions, commercial vehicle combinations in excess of eighty thousand (80,000) pounds will be permitted by the Idaho Transportation Department's Division of Motor Vehicles on local highways when a local highway jurisdiction authority has agreed to participate in the Department's permitting process.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016, Idaho Administrative Bulletin, **Vol. 16-10, pages 748-749**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Reymundo Rodriguez, Motor Carrier Manager, (208) 334-8699.

DATED this 23rd day of November, 2016.

Ramón S. Hobdey-Sánchez
Governmental Affairs Program Specialist
Idaho Transportation Department
3311 W. State Street
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 40-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The modifications to this rule address truck permitting and 129,000 lb commercial motor vehicles (129K trucks) on the state's Interstate system. With the Idaho legislature's passage of SB1229 (2016), 129K trucks are now able to use the Interstates as they are now 129K designated routes. SB1229 was brought forward after the passage of the Federal Omnibus Appropriations Bill for FY16 in December 2015. SB1229 created a new section in code: §49-1004B, Idaho Code.

Furthermore, this rule proposes to establish a statewide permitting system. To promote intrastate surface transportation safety, intermodal commerce, law enforcement efficiencies and reduced administrative costs to local highway jurisdictions, commercial vehicle combinations in excess of eighty thousand (80,000) pounds will be permitted by the Idaho Transportation Department's Division of Motor Vehicles on local highways when a local highway jurisdiction authority has agreed to participate in the Department's permitting process.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2016 Idaho Administrative Bulletin, [volume 16-5, pages 68-69](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 8th day of September, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0315-1601

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.03.15, "Rules Governing Excess Weight Permits for Reducible Loads," IDAPA 39, Title 03, Chapter 15. (3-20-14)

02. Scope. This rule authorizes the issuance of special permits which allow vehicle combinations to operate in excess of eighty thousand (80,000) pounds when hauling reducible loads on the Interstate and non-interstate and local highway systems if legal axle weight limits are not exceeded. To promote intrastate surface transportation safety, intermodal commerce, law enforcement efficiencies and reduced administrative costs to local highway jurisdictions, commercial vehicle combinations in excess of eighty thousand (80,000) pounds will be permitted by the Idaho Transportation Department's Division of Motor Vehicles on local highways when a local highway jurisdiction authority has agreed to participate in the Department's permitting process. (3-20-14)()

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL REQUIREMENTS AND CONDITIONS.

01. Weights Allowed on Interstate. The Federal Highway Amendment Act of 1974 established allowable legal weight limits on Interstate System Highways at twenty thousand (20,000) pounds on single axles, thirty-four thousand (34,000) pounds on tandems, and total gross loads not exceeding eighty thousand (80,000) pounds. (3-20-14)

02. Weights Allowed on Non-Interstate Highways. Allowable legal weight limits on non-interstate highways are set at twenty thousand (20,000) pounds on single axles, thirty-seven thousand eight hundred (37,800) pounds on tandems, and total gross loads not exceeding eighty thousand (80,000) pounds. (3-20-14)

03. Permit Types to Exceed Eighty Thousand Pounds Gross Weight. Permits will be issued for vehicle combinations operating on Interstate and non-interstate highways with total gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) pounds per tandem, and not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code. (3-20-14)

a. Excess Weight Permit - gross weight limited to one hundred five thousand five hundred (105,500) pounds on interstate, and non-interstate and local highways when the appropriate local highway jurisdictional authority has agreed to participate in the Department's permitting process. (3-20-14)()

b. Extra Length/Excess Weight Permit - gross weight limited to one hundred five thousand five hundred (105,500) pounds on interstate, and non-interstate and local highways and length limited to those specified in IDAPA 39.03.22, "Rules Governing Overlegal Permits for Extra Length, Excess Weight and Up to 129,000 Pound Vehicle Combinations." Except that no vehicle combination weighing more than one hundred five thousand five hundred (105,500) pounds shall operate on local highways contrary to the provisions of section 49-1004A, Idaho Code, IDAPA 39.03.22 and IDAPA 39.03.15.100.03.c. (3-20-14)()

c. Up to One Hundred Twenty-Nine Thousand (129,000) Pounds - gross weight not to exceed one hundred twenty-nine thousand (129,000) pounds on designated highways routes, as specified in Section 49-1004 and Section 49-1004B, Idaho Code, and length limited to those specified in IDAPA 39.03.22, "Rules Governing Overlegal Permits for Extra Length, Excess Weight and Up to 129,000 Pound Vehicle Combinations." (3-20-14)()

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.22 – RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE COMBINATIONS

DOCKET NO. 39-0322-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The modifications to this rule address commercial motor vehicle brakes. Specifically, that the brakes on all commercial motor vehicles must meet and be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. Additionally, no vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers. There is also new language that addresses driver training requirements in accordance with 49 CFR Part 380. This rule deals with reducible loads exceeding 80,000 pounds.

Based on public comments received throughout the rulemaking process, the following sentence, under sections 200.01 and 300.09 was removed: No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2016, Idaho Administrative Bulletin, [Vol. 16-9, pages 270-273](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Reymundo Rodriguez, Motor Carrier Manager, (208) 334-8699.

DATED this 3rd day of November, 2016.

Ramón S. Hobdey-Sánchez
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 40-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The modifications to this rule address commercial motor vehicle brakes. Specifically, that the brakes on all commercial motor vehicles must meet and be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. Additionally, no vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers. There is also new language that addresses driver training requirements in accordance with 49 CFR Part 380. This rule deals with reducible loads exceeding 80,000 pounds.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2016 Idaho Administrative Bulletin, [volume 16-5, pages 68-69](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: this administrative rule does reference 49 CFR Part 380 "Special Training Requirements" as well as Federal Motor Vehicle Safety Standards No. 121 which deals with air brake systems. Reference to these federal regulations is the result of ITD's negotiated rulemaking and each one directly addresses safety on Idaho's highway system.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 3rd Day of August, 2016.

LSO Rules Analysis Memo

Italicized red text that is double underscored is new text that has been added to the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0322-1601

200. DESIGNATED ROUTES FOR VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS.

In addition to the requirements listed in Sections 300 and 400, vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds, must meet the following requirements: (7-1-13)

01. Brakes. All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. (7-1-13)()

02. Permits. Permits will be vehicle specific and will be in addition to any extra length and excess weight permit for operation of vehicle combinations at weights up to one hundred five thousand five hundred (105,500) pounds. (7-1-13)

03. Designated Routes. All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the "Designated Routes Up to 129,000 Pound Map" which is available at the Idaho Transportation Department. (4-1-14)

a. Black-Coded Routes. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seven five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seven five (8.75) feet off-tracking. ()

b. Magenta-Coded Routes. Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (magenta-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed. (3-25-16)

c. Brown-Coded Routes. Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (brown-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed. (3-25-16)

d. Routes for combinations operating on non-state maintained highways (orange-coded routes). Local jurisdictions adding, modifying or deleting non-state maintained routes for vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds shall provide the route information to the department. (4-1-14)

04. Requests for Adding Idaho Transportation Department Maintained Non-Interstate Routes. Routes not currently designated to operate at up to one hundred twenty-nine thousand (129,000) pounds may be added as follows: (4-1-14)

a. Request Form Submission. The request form (ITD form number 4886) will be completed and

submitted to the Idaho Transportation Department Office of the Chief Engineer by the requestor. The requestor will forward the form to the adjacent local jurisdictions. (4-1-14)

b. Request Review/Analysis Process. (4-1-14)

i. Once submitted, the request will be reviewed for completeness and the department's analysis will be completed for engineering and safety criteria. The criteria shall include assessment of pavement and bridges to allow legal tire, axle, and gross weight limits as per Section 49-1001 and 49-1002, Idaho Code, and route off-track requirements which includes road width and curvature. Additional consideration shall be given to traffic volumes and other safety factors. (4-1-14)

ii. Once the analysis is completed, the request will be submitted to the Chief Engineer, who will report to the Idaho Transportation Board Sub-committee. (4-1-14)

iii. The Idaho Transportation Board Sub-committee will make a recommendation (proceed to hearing, reject, or request additional information) to the Idaho Transportation Board based upon the department's analysis. (4-1-14)

iv. If the Idaho Transportation Board recommends that the request proceed to hearing, it shall instruct the Chief Engineer to schedule a hearing in the district(s) where the requested route is located. The hearing will be conducted pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (4-1-14)

v. The Chief Engineer or designee will conduct the hearing(s) and make a determination after the hearing(s) are held. Following the determination, the Chief Engineer will issue Findings and a Preliminary Order, hereafter referred to as Preliminary Order. (4-1-14)

vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. (4-1-14)

vii. An appeal of the Preliminary Order may be made pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. The appeal shall be made to the Director of the Idaho Transportation Department. (4-1-14)

c. Local Highways Approved for Travel Up to 129,000 pounds. Local routes will be added or removed on the "Designated Routes Up to 129,000 Pound Map" when information and approval is provided to the Department by the local jurisdiction having authority over the local route. (4-1-14)

201. -- 299. (RESERVED)

300. OPERATING REQUIREMENTS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS VEHICLE COMBINATIONS.

All vehicle combinations shall be subject to the following conditions, limitations, and requirements: (7-1-13)

01. Cargo Carrying Units. Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (7-1-13)

02. Power Unit. The power unit of all vehicle combinations shall have adequate power and traction to maintain a minimum of twenty (20) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (7-1-13)

03. Connecting Devices. Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (4-7-11)

04. Hazardous Travel Conditions Restrictions. Extreme caution in the operation of permitted vehicle

combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid en route when travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet. (7-1-13)

05. Trailer Weight Sequence. In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

06. Operating Restrictions. Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (8-25-94)

a. A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

b. Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

c. Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

07. Insurance Requirements. Every vehicle combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (7-1-13)

08. Tire Limitations. Single axles on vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed six hundred (600) pounds, the manufacturers rating or legal weights whichever is less. Load for inch width of tire for the front steer axle may not exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle whichever is less. (3-25-16)

09. Brakes. Brakes shall meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. (7-1-13)()

10. Drivers. All drivers shall meet the special training requirements for Longer Combination Vehicles as outlined in 49 CFR Part 380. ()

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.23 – RULES GOVERNING REVOCATION OF OVERLEGAL PERMITS

DOCKET NO. 39-0323-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The modification to this rule addresses a new instance in which a permit can be revoked. Specifically, revocation of a permit for non-compliance if the motor carrier has violated an Out-of-Service order by the Federal Motor Carrier Safety Administration (FMCSA) as described in 49 CFR Part 386 (386.73) of the Federal Motor Carrier Safety Regulations.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016, Idaho Administrative Bulletin, [Vol. 16-9, pages 274-275](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Reymundo Rodriguez, Motor Carrier Manager, (208) 334-8699.

DATED this 3rd day of November, 2016.

Ramón S. Hobdey-Sánchez
Governmental Affairs Program Specialist
Idaho Transportation Department
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ramon.hobdey-sanchez@itd.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 40-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The modification to this rule addresses a new instance in which a permit can be revoked. Specifically, revocation of a permit for non-compliance if the motor carrier has violated an Out-of-Service order by the Federal Motor Carrier Safety Administration (FMCSA) as described in 49 CFR Part 386 (386.73) of the Federal Motor Carrier Safety Regulations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2016 Idaho Administrative Bulletin, [volume 16-5, pages 68-69](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule. This rule change does reference 49 CFR 386.73 which deals with a FMCSA out-of-service order. This order may be issued to prohibit a motor carrier from conducting operations subject to FMCSA jurisdiction if it is determined that said motor carrier attempted to operate under a new identity or as an affiliated entity to: (1) Avoid complying with an FMCSA order; (2) Avoid complying with a statutory or regulatory requirement; (3) Avoid paying a civil penalty; (4) Avoid responding to an enforcement action; or (5) Avoid being linked with a negative compliance history.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 2nd Day of August, 2016

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0323-1601

100. REVOCATION OF PERMIT FOR NON-COMPLIANCE WITH THE LIMITATIONS OR PROVISIONS OF THE PERMIT.

01. Disqualification of Permits. The permit shall become invalid and the cited vehicle may be disqualified for reissuance of permits if convicted of the following: (3-20-14)

a. The vehicle combination does not satisfy the requirements of Federal Motor Carrier Safety Regulations Part 393. (3-20-14)

b. The vehicle combination violates permitting conditions (other than weight) for the following: (3-20-14)

i. Failure to travel on Extra Length or Up to 129,000 Pound designated routes. (3-20-14)

ii. Failure to properly display required flags and/or signs. (3-20-14)

iii. Failure to provide required number of pilot cars and/or proper placement. (3-20-14)

iv. Failure to provide required lighting for travel during hours of darkness. (3-20-14)

v. Failure to travel during the hours of operation as specified on the permit. (3-20-14)

vi. Failure to comply with wind velocity requirements when moving manufactured housing, office trailers and modular buildings. (3-20-14)

vii. Failure to comply when travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet. (3-20-14)

c. The vehicle combination violates weight limits under Section 49-1001 (1)(2) & (9), Idaho Code. (3-20-14)

i. Violating weight limits for single, tandem, tridem, quad, or other type axle groups by more than fifteen percent (15%). (3-20-14)

ii. Violating gross or bridge weight allowances by more than seven percent (7%). (3-20-14)

d. The motor carrier has violated an Out-of-Service order by the Federal Motor Carrier Safety Administration as described in Part 386 (386.73) of the Federal Motor Carrier Safety Regulations. ()

02. Permit Revocation Process. A copy of the judgment of conviction from the court and the overlegal permit authorizing operation must be provided to the Permit Office by enforcement personnel. Paperwork will be reviewed for compliance with the provisions of this rule and, if met, notification will be sent to the company informing them of the pending revocation that will occur within ten (10) days of the letter being issued. (3-20-14)

03. Disqualification Periods. When a permit has become invalid, the vehicle identified on the invalidated permit may be disqualified for reapplication for permit for a period of thirty (30) days after the first violation, for a period of six (6) months after the second violation, and for a period of one (1) year after the third violation. (3-20-14)

04. Penalties. In addition to revocation of permits as authorized in this rule, the permittee shall be subject to all applicable penalties provided by law with regard to the provisions violated. (8-25-94)